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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,339	08/01/2003	Louis A. Antonucci	03542	3587
61363	7590	05/02/2008		
ROY A. EKSTRAND 3158 REDHILL AVE., STE 150 COSTA MESA, CA 92626			EXAMINER BOECKMANN, JASON J	
			ART UNIT	PAPER NUMBER
			3752	
			MAIL DATE	DELIVERY MODE
			05/02/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/632,339

Applicant(s)

ANTONUCCI, LOUIS A.

Examiner

Jason J. Boeckmann

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "valve seal" in line 7. There is insufficient antecedent basis for this limitation in the claim. It is not understood if the "valve seal" is the same seal form the "a trigger shaft having a seal" from line 5, or a completely different part of the valve.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jett et al. (3,820,722) in view of Tamai (3,887,135).

Jett et al. shows a spray gun, comprising: a chamber spray head (13), having a one-way check valve (27) installed at a first end thereof to allow a compressed air flowing therein; a texture supply (14) having texture material therein; a nozzle (20), connected to a second end of the chamber spray head; and a supply tube (29), extending across the chamber spray head with an inlet entering the texture supply and an outlet entering the nozzle, wherein; the outlet defines a plurality of angled dispersal apertures (34) there though positioned within the nozzle and is restricted in the nozzle with an adjustable space (D1) to reciprocate responsive to the compressed air; the outlet is so structured that the compressed air is introduced from the chamber spray head into the supply tube, through the angled dispersal apertures within the nozzle to adjust a pattern of a texture flowing there through and outwardly from the nozzle; and the inlet is so structured that the compressed air is able to flow from the chamber spray head to the texture supply to drive the texture material into the supply tube, but does not specifically disclose that the plurality of angled apertures force the material being sprayed into a swirling motion.

However, Tamai shows an atomization nozzle that atomizes a texture spray using a rotational air stream. The nozzle comprises a liquid supply tube (1) and an air channel (2) wherein the air flows through the angled spiral grooves (4) and into the outlet of the liquid channel creating a swirling motion of the liquid being sprayed. It is noted that the angled spiral grooves are within the nozzle and cause the fluid exiting the nozzle to rotate prior to leaving the nozzle, see figure 1b.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to orientate the plurality of angled dispersal apertures of Jett et al.'s invention, in a spiral configuration similar to the spiral grooves (4) of Tamai's invention, in order to create a spiral motion with textured material being sprayed before it leaves the nozzle, as taught by Tamai (abstract).

Regarding claim 2, the spray gun of Jett et al. as modified by Tamai, comprises a hollow body (10) connected to the first end of the chamber spray head and is connected to an air source.

Regarding claims 3 and 4, the spray gun of Jett et al. as modified by Tamai, comprises a nozzle seat (40) between the spray camber head and the nozzle and the nozzle is adjustably mounted on the nozzle seat (the threads).

Regarding claims 5 and 6, the tube has a smaller outside dimension than and than nozzle seat, and the chamber spray head has an opening in a sidewall thereof to allow the supply tube to extend into the texture supply.

Regarding claims 7 and 8, the opening of the chamber spray head is larger than a dimension of the supply tube and the outlet has a protruding structure (32) to restrict it in the nozzle.

Claims 11, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jett et al. (3,820,722) in view of applicants admission (Detailed Description (lines 3-6) and further in view of Gray (2,564,686).

Jett et al. shows a compressed air spray gun comprising: a texture material supply (14) for receiving and retaining a quantity of texture material; a chamber spray head (13) coupled to the texture material supply having a compressed air input (25); a nozzle (20) supported by the chamber spray head having a nozzle chamber (36) and nozzle aperture; a supply tube (29) extending from the nozzle to the texture material supply; an air input passage (where the air enters the gun handle 10) and an air output passage (where the air exits the handle area and enters the spray chamber head 13), wherein the nozzle defines a nozzle bore (21) and wherein the supply tube includes an upper end passing through the nozzle into the nozzle chamber and having a disperser (32) supported upon the upper end within the nozzle chamber operative upon the texture material before it discharges from the nozzle, but does not specifically disclose that the spray gun is connected to a source of compressed air including input and output passages, and that it includes a trigger unit between the input and output passages operable in an open and a closed state, wherein the trigger unit includes a spray gun air bleed operable when the trigger is switched from the open state to the closed state to release pressure in the spray gun.

However, Applicant admits that "It will be appreciated that one of ordinary skill in the art may also use other pressure supply structures such as an air compressor as set forth in the alternate embodiment shown in Figure 6 to achieve the similar effect without exceeding the scope of the present invention." (Detailed Description (lines 3-6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to connect the spray gun of Jett et al. to an air compressor to insure a steady supply of compressed air at a much higher pressure.

Additionally, Gray shows a high pressure trigger operable in an open and closed state, comprising a spray gun air bleed (41) operable when the trigger is switched from the open state to the closed state to release pressure in the spray gun. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to insert the trigger unit of Gray in between the air input and air output passages of the invention of Jet et al., in order to control the flow of fluid with a quick, easy and gentle opening and closing action, as taught by Gray (column 1, lines 1-5).

Claims 12-14 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Jett et al. (3,820,722) in view of applicants admission (Detailed Description (lines 3-6) and further in view of Gray (2,564,686), further in view of Huber et al. (5,219,097).

Jett et al. as modified by the applicant's admission and Gray, shows all aspects of the applicant's invention as in the rejection of claim 11 above, including an internal chamber (17) of the trigger formed in the spray gun in communication with input (12) and output (14) passages having a valve seal (34) there between, a trigger shaft (27) having a seal, an inner end and an outer end, the trigger shaft being movable between a first position closing the seal against the valve seal and a second position opening the

seal away from the valve seal, and an air bleed path (41) formed in the trigger shaft, but does not include a spring urging the trigger shaft toward the first position.

However, Huber et al. shows a push button valve in a spray gun with a bleed air passage that includes a spring (89) to bias it in a first position.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to add a spring to the trigger of Jett et al. as modified by the applicant's admission and Gray, as taught by Huber et al., in order to keep the trigger in a closed position so that air doesn't unintentionally spray from the gun.

Regarding claims 13 and 14, the bleed path includes one or more grooves formed in the trigger shaft and the trigger includes a trigger button (28) on the outer end wherein the bore terminates on an outer surface, the trigger unit including a resilient seal (31) carried by the seal shaft between the trigger button and the outer surface.

Response to Arguments

Applicant's arguments filed 11/23/2007 have been fully considered but they are not persuasive.

Concerning the applicant's arguments, about the material being swirled within the nozzle, it is respectively noted that the angled grooves 34 of Jett et al. are inside the nozzle 20 and affect the flow of the material while it is still inside the nozzle. It is also noted that if the grooves 34 of Jett et al. were modified to be orientated in a spiral

configuring similar to the grooves of Tamai, the grooves would still be inside the nozzle and would still affect the material while it was inside the nozzle.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571)272-2708. The examiner can normally be reached on 8:00- 5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. J. B./

Examiner, Art Unit 3752

4/28/2008

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752